

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES CHRISTOPHER SCHMIDT,)	
)	
Plaintiff,)	4:06CV3285
)	
v.)	
)	
DUSTY BRYNER, individually)	MEMORANDUM AND ORDER
and in his official capacity)	
as a police officer for the)	
CITY OF ALLIANCE, DARRIN)	
KREMER, individually and in)	
his official capacity as a)	
police officer for the CITY)	
OF ALLIANCE, JOHN KISS,)	
individually and in his)	
official capacity as police)	
chief for the CITY OF)	
ALLIANCE, ALLIANCE, CITY OF,)	
and JOHN DOE 1-10,)	
)	
Defendants.)	
)	

The parties have filed conflicting requests for place of trial. The plaintiff's complaint requests trial in Lincoln. See filing 1 (Complaint), ¶ 3. The defendants request trial in North Platte, and have submitted the affidavit of counsel in support of that request. Filing 11. The plaintiff has not responded to the defendant's request for change of trial location.

The plaintiff's complaint alleges Alliance, Nebraska police officers used excessive force in contacts with the plaintiff February 5, 2006. The plaintiff claims he was shot without justification; that due to the officers' malice or indifference, medical care was not timely and properly administered following this shooting; and that the Alliance Police department disseminated false reports about the incident in an attempt to

exonerate the officers directly involved. The plaintiff and all named defendants live in Alliance, Nebraska, and the events at issue occurred in Alliance. See filing 1 (Complaint), ¶¶ 4-8; filing 11, ex. 1 (Olsen affidavit). All known trial witnesses live west of North Platte, Nebraska. Filing 11, ex. 1 (Olsen affidavit), ¶ 7.

When resolving conflicting requests for place of trial, "the judge shall consider the convenience of the litigants, witnesses, and counsel." NECivR 40.1(b)(2). The plaintiff's complaint and the evidence before me establish that with the exception of the location of plaintiff's counsel and the presiding judge, all persons who will attend the trial live in western Nebraska. The parties and witnesses live in Alliance, which is 175 miles from North Platte but nearly 400 miles from Lincoln; defendants' counsel practices in Scottsbluff, Nebraska, which is 200 miles from North Platte and over 400 miles from Lincoln. North Platte is a more convenient trial location for the litigants, witnesses, and defendants' counsel.

IT THEREFORE HEREBY IS ORDERED: The defendants' motion to change the trial location, filing 11, is granted. Trial will be held in North Platte, Nebraska.

DATED this 2nd day of February, 2007.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge